

a little visit with him. I know he doesn't seriously mean that.

Mr. BENNETT. I think the possibility is extremely, extremely small.

Mr. BIDEN. I believe in miracles, too. I am a Catholic. I believe in miracles.

Mr. BENNETT. I do, however, know that over 50 percent of the shortfall in the projected surplus that we were talking about at the time we started, in 2001, is due not to the tax cut and not to increased spending but to the downturn in the economy. If the economy should come back to be as strong as it was before—and there are signs that it is recovering nicely now—that 50 percent could be recovered.

So, no, I agree that we will not remove the deficit, but I think it is an inaccurate statement to say it will be exactly the \$87 billion.

We do that around here and it frustrates me as a former businessman. It frustrates me as a legislator. We are constantly taking the latest numbers from CBO and assuming that they are cast in stone. Then 3 months later, when we get the next set of numbers that completely contradict the earlier ones, we say: Oh, these are the true numbers, and we go on and on. I am not arguing with the Senator's general direction, but I wanted to be a little careful in the specificity with which he outlines this.

Let me get to the heart of the issue that I have with the proposal the Senator is making. I hope I can do this without being too arcane, and I hope I can do it quickly because I recognize I am on the Senator's time and I again thank him for his courtesy.

Mr. BIDEN. May I ask, there is no time agreement right now; is that correct?

The PRESIDING OFFICER (Ms. MURKOWSKI). That is correct.

Mr. BIDEN. So the Senator is entitled to have it on his time.

Mr. BENNETT. I thank the Senator. I think his experience at his cocktail party is one that would be repeated by every one of us if we were to gather people of that kind of income in any one of our States. So why don't we all join with the Senator from Delaware? Why am I not saying I agree with him?

If I may illustrate the reasons with a personal example, not all of the tax returns that are filed and that are in the statistical sample the Senator described represent income to individuals. I do not know the current number. I would have looked it up if I had known I was going to get in this exchange. But other numbers have said 75 percent, 80 percent, or some very high figure of percentage of those tax returns that show \$400,000 in gross income are, in fact, not income to the individual. Let me give you my personal example to illustrate this.

Before I came to the Senate, I was CEO of a company that was an S corporation. S corporations as opposed to C corporations are exactly the same thing except for the way they are taxed. The "S" refers to that section of

the Tax Code that is appropriate and "C" refers to that section of the Tax Code that is appropriate. In an S corporation, the earnings of the company flow through to the shareholders and are reported on the shareholders' personal tax returns. Therefore, they show up as income to the individual.

I will again use myself as the example. I was the CEO of this company. I was earning \$140,000 a year as the CEO of the company. The company started to do really very well. It was growing very rapidly. Sales were more than doubling every year. We were bringing on new people. We were building new buildings. We needed every dime of capital we could put our hands on. Fortunately for us, we were doing this during what the New York Times called "The Decade of Greed;" that is, when the top marginal tax rate was 28 percent.

By putting the income of the company on my personal tax return and those of the other shareholders, the company was paying an effective rate of 28 percent which meant we got to keep 72 cents out of every dollar we earned to finance the growth of that company. We created that company with internally generated funds. We didn't do it by going to the stock market. We didn't do it by going to the banks. Of course, we had a line of credit at the bank. But it was not part of our capital. That meant one of the last years before I left the company and decided to run for the Senate, my compensation from the company was \$140,000.

Let us go through these numbers.

My compensation from the company was \$140,000. My share of the company's profits which was reported on my 1040 was \$1 million. As far as the IRS was concerned, I was a very rich man who was earning \$1.14 million a year. All I got was \$140,000. The rest of it, while reported on my tax return, was kept in the company to pay for the growth of the company.

Mr. KERRY. Mr. President, will the Senator yield for a question?

Mr. BENNETT. I am happy to yield to the Senator.

Mr. KERRY. Isn't it accurate that because it was a subchapter S corporation all of the deductions also flowed through to you? Isn't it accurate? All the deductions flowed through you?

Mr. BENNETT. Of course. The net amount I reported after the deductions was \$1 million. So as far as the IRS was concerned, my income was \$1.14 million. Under the Tax Code, the deductions to which the Senator from Delaware referred that go to people in these categories were all wiped out by the \$1 million. All of my credits, all of my deductions—everything was wiped out.

If we were to take the numbers the Senator from Delaware was talking about, and say, OK, you have someone with a \$400,000 gross income, and that means his after-tax income is \$312,000 because of the standard deduction, if he has a chunk of 401-K income on this

from either an S corporation or an LLC corporation, or a partnership, all of those standard deductions go away very quickly as the number goes up.

The point of this is not to argue one way or the other about how the tax structure is; it is to say the Senator is inadvertently targeting a large number of small businesses where profits and growth money are being reported on individual returns rather than through corporate returns. The S corporations were made substantially worse after the Reagan years because of the summit at Andrews Air Force Base, and then what was done with the Clinton tax increases.

There are not as many people using the S corporations as there used to be because the advantage is not as great. But there is a still a very substantial amount of small business income that will be hit by the Senator's amendment. We are not just talking about Donald Trump and Jennifer Lopez. We are not talking about Michael Jordan. We are talking about people who are building businesses for whom \$400,000 a year for the income of the business is a demonstration of a struggle. It is not a demonstration of the kind of opulence you find at the Delaware country club. It is survival. We didn't get to the point with the business I have described where we felt comfortable in cash flow until our earnings were well into the \$10 million, \$12 million, or \$15 million area because of the demand for capital.

Mr. BIDEN. Mr. President, will the Senator yield?

Mr. BENNETT. I would be happy to.

Mr. BIDEN. We are trying to get this agreement. As a practical matter, this will come out of my time. I think the Senator has made his point.

Let me make a macroeconomic point and let some of my other colleagues respond as well. With regard to the small businesses, small business owners can still happen to be among the top 1 percent income earners. Only 2 percent of the small business owners fall into that bracket, a number which includes a lot of people who have passive participation with investment income in small business. These are not hands-on, mom-and-pop businesses. If you look at the sole proprietorships, those of hands-on owners, less than 2 percent are paying the 35 percent bracket. Therefore, 98 percent of the small business owners will not be affected by this proposal, as I understand from staff.

I will get back to this in our discussion. But I want to yield to my friend from Massachusetts because we are about to enter into a time agreement. I didn't realize we were running the time before the agreement is made. At any rate, I will reserve the remainder of the time while we are trying to work this out.

To respond to my friend, I understand his point. The bottom line is no matter how you cut it, this is affecting an incredibly small number of people for an incredibly important undertaking and the alternatives are worse